

# Local Law Filing

**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County    City    Town    Village  
*(Select one:)*

of MORIAH

Local Law No. 2 of the year 2019

A local law entitled, "Town of Moriah Commercial Building Law"  
*(Insert Title)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Be it enacted by the Town Board of the  
*(Name of Legislative Body)*

County    City    Town    Village  
*(Select one:)*

of Moriah as follows:

Full Text of Law Is Attached Hereto

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 19 of the (County)(City)(Town)(Village) of \_\_\_\_\_ Moriah was duly passed by the \_\_\_\_\_ Town Board on March 26 20 19, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ *(Elective Chief Executive Officer\*)*.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as \_\_\_\_\_ of \_\_\_\_\_ the (County)(City)(Town)(Village) of \_\_\_\_\_, \_\_\_\_\_, and was (approved)(not approved) by the \_\_\_\_\_ *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20 \_\_\_\_\_, in accordance with the applicable provisions of law. *(Elective Chief Executive Officer\*)*

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

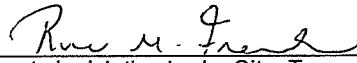
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(See)

Date: 3/26/19

Local Law 2 of 2019

Town of Moriah Commercial Building Law

**Article I      Introductory Provisions**

**Section 1.      Title**

The title of this local law is "Town of Moriah Commercial Building Law".

**Section 2.      Enactment and Authority**

This local law is adopted pursuant to the authority of the New York State Municipal Home Rule Law Section 10, Section 64(23) of the Town Law, and Section 10(1) of the Statute of Local Governments, which authorizes a Town to provide by local law or ordinance for the enforcement of Article 16 of the Town Law and of any local law, ordinance or regulation made thereunder.

**Section 3.      Purposes**

The downtown streets and commercial areas of the hamlet of Port Henry play a critical role in the Town of Moriah, are highly valued as the center of the Town's community, and contribute significant economic, historic and architectural resources essential to the continued development of the economy of the Town. The Town Board has determined that the sustainability of commercial structures, uses and development in the hamlet of Port Henry enhances and protects the health, safety and welfare of the citizens of the Town.

There has long been a concern about the overall economic health of the hamlet and Town. In the hamlet of Port Henry, there is a high vacancy rate in commercial buildings and many ground floor units of commercial buildings have been repurposed for residential or other non-commercial uses. This conversion of commercial space to residential space has eroded both the ability to revitalize the community and has diminished the community character.

Non-retail use of existing first-floor space historically utilized as commercial has a negative impact on the economic viability of the entire hamlet area and the Town. The character and condition of Port Henry's building facades also speak to the history of the hamlet as a commercial center. Use of first floors of commercial buildings for residential dwellings or apartments is considered to adversely affect the Town's ability to revitalize the business community.

The Town of Moriah desires to promote commercial development that will help it be more economically sustainable. The Town promotes mixed uses where commercial and residential uses are located in the same building but wants to preserve street level space for commercial uses. This local law is necessary in order to restrict conversion of street level space within commercial buildings to residential uses. Further purposes of that restriction are to:

- a) Recognize and enhance the hamlet's historic scale and character.
- b) Promote full utilization of buildings and property.
- c) Celebrate and expand the hamlet's role as an economic and social center for the Town.

- d) Protect and encourage the use of existing commercial buildings to revitalize the Moriah community, increase foot-traffic commerce in the hamlet, and increase opportunities for retail and other commercial uses.

#### **Section 4. Applicability**

This local law shall apply to all existing commercial buildings located within the area identified as "Downtown Streets" as that term is defined in Section 5 of this Law.

#### **Section 5. Definitions**

**Commercial Use:** Any property or structure used for the sale of goods or provision of personal or professional services.

**Commercial Development:** The construction of a new structure, or the rehabilitation or conversion of an existing structure to be used as a commercial building.

**Community Character:** The image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.

**Downtown Streets:** Main Street (Route 22) and that portion of Broad Street between Main Street and College Street in the hamlet of Port Henry.

**Dwelling Unit:** One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a household.

**First Floor:** The floor of a building at the level of the street or surrounding ground; the ground floor. First floor shall have the same meaning as 'street level'.

**Port Henry:** The area known formerly as the Village of Port Henry and identified as a hamlet area named Port Henry on the Adirondack Park Agency and shown on the Adirondack Park Land Use and Development Plan Map and State Land Map – March 2018 Edition.

**Non-Commercial Structure:** A building used as a dwelling unit and that serves as the home, abode, or place where an individual or family is living at a specific point in time.

**Non-Commercial Use:** The use of space in any structure as a dwelling unit or any other use that is not a commercial use.

**Street Level Residential Development:** means any construction or other activity that materially changes the use of the first floor of an existing commercial structure or portion of an existing commercial structure for the purpose of establishing or expanding a residential use. Street Level Residential Development shall include but shall not be limited to structures on the commercial property, renovations, changes in or expansions of existing structures, changes in or expansions of existing uses, demolition, and facade or street front renovations that converts or uses first floor space of a commercial structure for residential use .

## **Article II      Commercial Building Regulations**

### **Section 6      Street Level Residential Use of Commercial Building**

- A. Street level residential development in an existing commercial structure located in the Downtown Streets in Port Henry is prohibited.
- B. Street level space in the downtown area of Port Henry shall be used for commercial uses.
- C. Dwelling units and non-commercial uses shall be allowed only in the upper floors of the street level space of an existing commercial structure.
- D. Any street level space in an existing commercial structure that has been converted to residential development or any other use that is not a commercial use prior to the effective date of this Law shall be allowed to continue provided such use is not expanded or changed to a different non-commercial use.

## **Article III      Enforcement and Violations**

### **Section 7.      Enforcement**

- A. This Local Law shall be enforced by the Town of Moriah Code Enforcement Officer.
- B. Procedure for Investigation of Violations. The Code Enforcement Officer shall record all suspected violations. In addition, any person may report in writing a suspected violation to the Code Enforcement Officer. Within a reasonable time thereafter, the Code Enforcement Officer shall investigate and determine whether a violation exists. The investigation shall include a visit to the site of the alleged violation. To the maximum extent practicable the Code Enforcement Officer shall document the violation through photographs and other proof. The Code Enforcement Officer may also determine that a violation exists based on his or her own investigation and without a prior complaint. In that event the Code Enforcement Officer shall record and investigate the suspected violation as provided above.
- C. Inspection. The Code Enforcement Officer is authorized to enter, inspect, and examine any building or premises with the consent of the landowner, tenant, or occupant. If the landowner, tenant, or occupant does not provide such consent and the Code Enforcement Officer has probable cause to believe that a violation of this law is occurring, he is authorized to obtain an administrative search warrant to conduct such entry, inspection or examination.
- D. Notice of Violation. Within a reasonable time of determining whether a violation exists, the Code Enforcement Officer shall serve the landowner and any other responsible party, or both, with a "Notice of and Demand to Remedy Violation." The Notice shall be served on the landowner and any other responsible party by certified mail return receipt requested, by regular mail, by personal delivery, or any combination thereof. The Notice shall set forth the alleged violation in reasonable detail and cite to the applicable section of this Local Law. The Notice shall also state the corrective action sought and the time by which the corrective action must happen. A reasonable period shall be provided to correct a violation, which period shall be determined by the circumstances of the

violation and the degree to which the violation constitutes a danger to public health, safety and welfare.

- E. Appearance Tickets. If the alleged violator(s) fail to correct the violation within a reasonable time of the period provided for correction of the violation, the Code Enforcement Officer may then commence a proceeding by causing an appearance ticket to be served on the alleged violator(s) in accordance with the requirements of State law for issuance of appearance tickets.

The Code Enforcement Officer shall also prepare a supporting deposition setting forth the details of the violation. The Code Enforcement Office may also, where an appearance ticket fails to secure the court attendance of the alleged violator(s), request that a Justice Court issue a criminal summons for service on the alleged violator(s). Notwithstanding the foregoing, the Code Enforcement Officer may simultaneously or besides the remedy provided herein refer the alleged violation to the Town Board to authorize the prosecution of injunctive relief and/or the collection of civil fines as provided for in this section.

- F. Authorization to Issue Appearance Tickets. The Code Enforcement Officer is hereby authorized to issue and serve an appearance ticket with respect to violations of the Town of Moriah Commercial Building Law. An appearance ticket issued under authority of this Local Law shall be served personally.
- G. Abatement of Violations. The Town Board, or the Code Enforcement Officer with the permission of the Town Board, may commence an action in a court of competent jurisdiction to prevent, restrain, correct, or abate a violation hereunder. As part of such an action, such boards or officer may seek fines and civil penalties as provided for above.

#### **Section 8. Penalties**

- A. Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this Local Law shall be guilty of an offense and subject to a fine of not more than \$250, or by penalty of \$250 to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.
- B. In case of any violation or threatened violation of any of the provisions of this Local Law, in addition to other remedies herein provided, the Town Board may institute any appropriate action or proceeding to prevent such unlawful activity, to restrain, correct or abate such violation, or to prevent any illegal act, conduct, business or use in or about such premises.

#### **Section 9. Appeal Process**

- A. The Town Board shall hear and decide upon all appeals to this Local Law.
- B. An appeal shall be made within sixty days after the filing of any order, requirement, decision, interpretation or determination of the Code Enforcement Officer.

- (1) Any person seeking an appeal from a decision related to this Local Law by the Code Enforcement Officer shall file a notice of appeals with the Code Enforcement Officer and the Town Board and it shall specify the grounds for, and the relief being sought. Such notice shall specify the grounds for the relief requested, the interpretation claimed, or for the reversal of an order, requirement, decision or determination by the Code Enforcement Officer. The Code Enforcement Officer shall transmit to the Town Board all the papers constituting the record upon which the action appealed from was taken.
  - (2) Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer certifies to the Town Board, that by reason of facts stated in the certificate that a stay, would, in the opinion of the Code Enforcement Officer cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Town Board or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
  - (3) Hearing on appeal. The Town Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it after receipt of a complete application. The Town Board shall give public notice of such hearing by publication in a paper of general circulation in the Town at least five days prior to the date of the hearing. The cost of sending or publishing any notices relating to such appeal shall be borne by the appealing party and shall be paid to the Town Clerk prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.
  - (4) Appeal Decision and Criteria: The Town Board may provide any relief from the decision or order of the Code Enforcement Officer and the restrictions of this Law as it deems just under the circumstances of the particular appeal before it. Any relief from the restrictions of this law should be based on the applicant's demonstration that this Law unduly restricts the use of the commercial property that is the subject of the appeal, creates economic hardship to the owner of said commercial property, or substantially diminishes the economic viability of said commercial property. The Town Board shall determine if the applicant has adequately demonstrated that relief is warranted. The Town Board shall determine the type or extent of the relief from the restrictions of this Law and may impose conditions on the grant of such relief.
  - (5) Time of decision on appeal. The Town Board shall decide upon the appeal within sixty-two days after the close of the hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the board.
- C. Filing of decision and notice. The decision of the Town Board on the appeal shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- D. Rehearing. A motion for the Town Board to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Town Board. A unanimous vote of all members of the Town Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Town Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Town Board



finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

#### **Article IV Severability and Effective Date**

##### **Section 10. Severability**

If any section, specific part, provision or standard of this Local Law shall be determined to be invalid by any court of competent jurisdiction, such judgment shall be confined only to the part, provision or standard directly involved with the judgment rendered and shall not affect or impair the validity of the remainder of this Local Law in any other circumstance. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

##### **Section 11. Effective Date**

This law shall become effective upon filing with the New York State Department of State.

March 27, 2019

STATE OF NEW YORK  
COUNTY OF ESSEX } SS.:  
TOWN OF MORIAH

78. **ON MOTION** by Councilman Anderson, seconded by Councilwoman Carpenter, the following resolution was

APPROVED	Ayes	Salerno, Anderson, Carpenter, Brassard
	Nays	0
	Absent	Scozzafava

RESOLVED a Resolution of the Town Board of the Town of Moriah  
Adoption of Local Law No. 2 of 2019

At a meeting of the Town of Moriah Town Board, duly noticed and held on the 26th day of March, 2019, the following Resolution was presented:

**WHEREAS**, in accordance with the recommendations contained in the Village of Port Henry Dissolution Plan dated February 2016, the Town of Moriah has identified seven laws needing to be adopted by the Town of Moriah to incorporate former village regulations into the Town's Local Laws; and

**WHEREAS**, at its regular meeting held on February 14, 2019, the Town Board formerly introduced seven proposed local laws including proposed Local Law No. 2 of 2019 - Town of Moriah Commercial Building Law which prevents the conversion of street level or first floor commercial space to residential dwelling units in the hamlet of Port Henry; and

**WHEREAS**, the proposed Local Law has been referred to the Essex County Planning Department for its recommendation. pursuant to the General Municipal Law and that Department issued a notice that local consideration shall prevail: and

**WHEREAS**, a public hearing on proposed Local Law No. 2 of 2019 was duly noticed and held on March 21, 2019, and the hearing was closed prior to the introduction of this Resolution; and

**WHEREAS**, the Town Board, prior to the introduction of this Resolution, has completed the SEQRA review relative to the proposed Local Law and determined that the adoption of Local Law No. 2 of 2019 will not have a significant adverse impact on the environment; and

**WHEREAS**, all procedural requirements of SEQRA and the legal procedures for the adoption of the proposed Local Law having been completed to date; the Board has reviewed Part 1 of the

EAF prepared by its planning consultant and has reviewed completed Parts 2 and 3 of the EAF; and this meeting having been duly noticed, the Town Board is prepared and able to vote on the adoption of proposed Local Law No. 2 of 2019; and

**WHEREAS**, the proposed Local Law has not been changed subsequent to the public hearing and has been in final form and provided to each Town Board member in its final form since its introduction on February 14, 2019;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The public hearing on proposed Local Law No. 2 of 2019 has been duly noticed, held and closed and those who wished to be heard regarding said proposed law have had a full and fair opportunity to be heard.
2. The Town Board has completed the environmental review process pursuant to the State Environmental Quality Review Act (SEQRA).
3. The Town Board hereby adopts Local Law No. 2 of 2019 of the Town of Moriah, entitled, "Town of Moriah Commercial Building Law" which prevents the conversion of street level or first floor commercial space to residential dwelling units in the hamlet of Port Henry.
4. The Town Board hereby directs that the Village Clerk to prepare said Law for filing and that it be filed with the Office of the Secretary of State within five (5) business days of the effective date of this Resolution.

This Resolution shall take effect immediately.

#### CERTIFICATION

I, Rose M. French, Town Clerk, the duly qualified and acting Clerk of the Town of Moriah, New York, do hereby certify that the attached resolution was adopted at Special Meeting of the Town Board of the Town Moriah on Tuesday, March 26, 2019 at 10:00am and is on file of record and that said resolution has not been altered, amended or revoked and is in full force and effect.

SEAL



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Rose M. French  
Town of Moriah  
Town Clerk

*Rose M. French, Town Clerk  
Town of Moriah  
38 Park Place, Suite 2  
Port Henry, NY 12974  
(518) 546-3341 Fax (518) 546-3342*

March 26, 2019

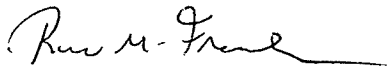
NYS Department of State  
Division of Corporation, State Records and  
Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231

To Whom It May Concern:

Enclosed please find Local Law #2 of 2019 for the Town of Moriah to be filed in your office.

Thank you.

Sincerely,



Rose M. French  
Town of Moriah  
Town Clerk

STATE OF NEW YORK  
**DEPARTMENT OF STATE**

ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001  
WWW.DOS.NY.GOV

ANDREW M. CUOMO  
GOVERNOR

ROSSANA ROSADO  
SECRETARY OF STATE

April 10, 2019

Rose M French  
Town Clerk  
38 Park Place, Suite 2  
Port Henry NY 12974

**RE: Town of Moriah, Local Law 2 2019, filed on March 29 2019**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, [www.dos.ny.gov](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 473-2492



**Department  
of State**